

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>D.H. a minor by her next friends A.H.,</b>	)	
<b>Mother, and E.H., father,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 3:22-cv-00570</b>
	)	<b>Judge Campbell</b>
<b>WILLIAMSON COUNTY BOARD OF</b>	)	<b>Magistrate Judge Frensey</b>
<b>EDUCATION; JASON GOLDEN, in his</b>	)	
<b>official capacity as Director of Williamson</b>	)	
<b>County Schools; THE TENNESSEE</b>	)	
<b>DEPARTMENT OF EDUCATION;</b>	)	
<b>and PENNY SCHWINN, in her official</b>	)	
<b>capacity as Commissioner of the</b>	)	
<b>Tennessee Department of Education,</b>	)	
	)	
<b>Defendants.</b>	)	

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**DEFENDANTS WILLIAMSON COUNTY BOARD OF EDUCATION AND JASON  
GOLDEN’S MOTION TO DISMISS**

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Come now Defendants Williamson County Board of Education and Jason Golden (“the County Defendants”), and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure move this Honorable Court to dismiss the claims against them for failure to state a claim upon which relief can be granted.

For cause, the County Defendants would show that Plaintiff cannot state a claim under the 14<sup>th</sup> Amendment to the U.S. Constitution where the challenged County policy comports with the Equal Protection Clause. Plaintiff asserts, at most, an incidental disparate impact upon transgender individuals without asserting facts that would show intent to discriminate by the County Defendants. In addition, acts or omissions of the County Defendants are not the moving force

behind the harm claimed by Plaintiff. Plaintiff cannot sustain a cause of action under Title IX, where Title IX contemplates and permits separate restroom policies such as the one in effect in Williamson County schools. The County Defendants would further show that to the extent Plaintiff seeks a revision to her Section 504 education plan or changes to her educational records under the Family Educational Rights and Privacy Act, she must exhaust required administrative remedies prior to seeking relief in this Court and has failed to state a claim upon which relief can be granted. Finally, Defendant Golden would show that the claims levied against him in his official capacity should be dismissed because they are redundant given that Plaintiff has also named the Williamson County Board of Education as a defendant.

In support of this Motion, the County Defendants submit the attached Memorandum of Law, and respectfully request that for the reasons stated herein and in said Memorandum, the claims against them be dismissed.

Respectfully submitted,

/s/ Lisa M. Carson

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been delivered electronically via the Court's electronic filing system to:

<p><i>Attorneys for Plaintiff</i></p> <p>Tricia Herzfeld Branstetter Stranch &amp; Jennings PLLC 223 Rosa L. Parks Avenue, Suite 200 Nashville Tennessee, 37203 <a href="mailto:triciah@bsjfirm.com">triciah@bsjfirm.com</a></p> <p>Adam S. Lurie Sean Mooney Benjamin Kurland LINKLATERS LLP 1290 Avenue of the Americas New York, New York, 10104 <a href="mailto:adam.lurie@linklaters.com">adam.lurie@linklaters.com</a> <a href="mailto:sean.mooney@linklaters.com">sean.mooney@linklaters.com</a> <a href="mailto:benjamin.kurland@linklaters.com">benjamin.kurland@linklaters.com</a></p> <p>Jason Starr Ami Patel Human Rights Campaign Foundation 1640 Rhode Island Avenue NW Washington, D.C. 20036 <a href="mailto:jason.starr@hrc.org">jason.starr@hrc.org</a> <a href="mailto:ami.patel@hrc.org">ami.patel@hrc.org</a></p>	<p><i>Attorneys for the Tennessee Department of Education and Penny Schwinn, as Commissioner of the Tennessee Department of Education</i></p> <p>Alexander S. Rieger Gabriel Krimm Matt Rice Attorney General's Office for the State of Tennessee P.O. Box 2027 Nashville, Tennessee 37202 <a href="mailto:alex.rieger@ag.tn.gov">alex.rieger@ag.tn.gov</a> <a href="mailto:gabriel.krimm@ag.tn.gov">gabriel.krimm@ag.tn.gov</a> <a href="mailto:matt.rice@ag.tn.gov">matt.rice@ag.tn.gov</a></p>
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on this the 25th day of October, 2022.

/s/ Lisa M. Carson  
Lisa M. Carson